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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,303	02/18/2002	Timothy Michael Rooney	DN1999216USA	2004
7590 06/04/2004				
The Goodyear Tire & Rubber Company Patent & Trademark Department D823 1144 East Market Street Akron, OH 44316-0001				
EXAMINER				
MAKI, STEVEN D				
ART UNIT		PAPER NUMBER		
1733				

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/069,303

Applicant(s)

ROONEY, TIMOTHY MICHAEL

Examiner

Steven D. Maki

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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- 1) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 2) Claim 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is indefinite because the preamble of claim 16 describes "The off-the-road tire of claim 10" whereas the preamble of claim 10 describes "An ATV tire". In claim 16 line 1, it is suggested to change "The off-the-road tire of claim 10" to --The ATV tire of claim 10--.

- 3) The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 4) Claims 10-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As to claim 10, the subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention (i.e. the new matter) is the subject matter of "at least one of said elongated lugs having an enlarged circumferentially extending lug head" (emphasis added). The

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original disclosure describes each lug as having an enlarged head 43. The original disclosure fails to teach omitting some of the enlarged lugs such that only one enlarged lug is used and/or the tire is imbalanced.

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Rooney and Harms

6) **Claims 10-13 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rooney (WO 98/03356) in view of by Harms (US 5259429).**

Rooney substantially discloses the claimed tire except for the tread elements. In Rooney's figure 2, the off road ATV tire has elongated lugs and blocks. The elongated lugs have enlarged heads on the EP of the tire as claimed. As claim 10, it would have been obvious to one of ordinary skill in the art to provide the tread of Rooney's off road tire (ATV tire) with the claimed tread elements in view of the suggestion from Harms to arrange low height letters 110 between elongated lugs of an ATV tire so that (1) the trademark of the tire can be displayed and (2) the flow of soft earth can be retarded and thereby provide increased lateral stability. See figure 9 of Harms. The claimed tread elements read on letters each of which project outwardly a distance less than the height of the elongated lugs. For example, the claimed tread elements read on the letter "M" which has "at least one side" substantially parallel to an adjacent elongated lug. Another example: The claimed tread elements read on the letter "R" which has at least

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one side parallel to an adjacent elongated lug. Claim 10 fails to exclude tread elements being in the form of letters.

As to claim 11, Harms suggests arranging the letters such that one side of the letters is parallel to the lugs.

As to claim 12, Rooney's soil discharge channels are joined as can be seen from figure 2 of Rooney.

As to claim 13, Rooney describes using a NTG of less than 25% at page 7 lines 29-30.

As to claim 15, the limitation of the tread element being positioned in an exit would have been obvious in view of Harms' suggestion to arrange letters, which function the same as the knobs, across a desired extent of the tread.

As to claim 16, Rooney shows curved lugs.

Rooney, Great Britain '335 and Klein et al

**7) Claims 1, 3-5 and 7-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rooney (WO 98/03356) in view of Great Britain '335 (GB 1236335) and Klein et al (US 5377734) and optionally French '193 (FR 2201193).**

Rooney substantially discloses the claimed tire except for the tread elements. In Rooney's figure 2, the off road ATV tire has elongated lugs and blocks. The elongated lugs have enlarged heads on the EP of the tire as claimed. As claims 1 and 10, it would have been obvious to one of ordinary skill in the art to provide the tread of Rooney's off road tire (ATV tire) with the claimed tread elements in view of Great Britain '335 and optionally French '193's suggestion to locate relatively low height tread elements (low

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height bars / ribs) between lugs (main bars / ribs) to improve the self cleaning of the tire (prevent the tread from clogging up with earth). French '193 (optionally applied) is further evidence of the desirability to use low height tread elements in a tread having a low net to gross. Furthermore, it would have been obvious to shape the tread elements for self cleaning such that they are triangular shaped as claimed in view of Klein et al's teaching to using a triangular shape for tread elements (blocks) of an all terrain tread so that the tread has a self cleaning design.

As to claim 3, Rooney shows curved elongated lugs.

As to claims 4 and 9, the limitation therein would have been obvious since (a) Rooney shows forming the opening 62 between the lug and the block in a "shoulder region" and (b) Great Britain '335 and the optionally applied French '193 suggest locating the low height tread elements at the "shoulder region" of the tire.

As to claim 5, the claimed concave curvature would have been obvious since Klein et al teaches that the triangular shaped tread element may have a concave side.

As to claims 7 and 8, Rooney teaches a bias ATV tire..

As to claim 11, it would have been obvious to arrange the tread elements such that at least one side is parallel to an adjacent lug since Great Britain '335 and the optionally applied French '193 suggests providing the low height tread elements such that one side is parallel to an adjacent lug.

As to claim 12, Rooney's soil discharge channels are joined as can be seen from figure 2 of Rooney.

As to claim 13, Rooney describes using a NTG of less than 25% at page 7 lines 29-30.

As to claim 14, Klein et al suggests the triangular shape.

As to claim 15, it would have been obvious to locate a tread element in an exit of the soil discharge channel depending on the desired self cleaning ability in view of the applied secondary art's suggestion to use tread elements to improve self cleaning.

As to claim 16, the claimed curved side would have been obvious since Klein et al teaches that the triangular shaped tread element may have a concave side.

**8) Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rooney (WO 98/03356) in view of in view of Great Britain '335 (GB 1236335) and Klein et al (US 5377734) and optionally French '193 (FR 2201193) as applied above and further in view of French '341 (FR 1163341).**

As to claims 2 and 6, it would have been obvious to radially incline the walls of the low height self cleaning tread elements suggested by the secondary art including Great Britain '335 and the optionally applied French '193 by at least 8 degrees in view of French '341's suggestion to provide a low height protrusion (for preventing stone trapping / cutting of groove bottom) with various cross-sectional forms including those with radially inclined walls. During a partial oral translation of French '341 by a PTO translator, the following information was obtained: Prior art treads have sculptures / recesses to improve adhesion. Areas of the tread are vulnerable to tears / retaining cutting objects such as pebbles from the road surface deteriorating the bottom. This tendency is reduced / eliminated by providing a specific shape comprising protruding

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elements placed at the bottom of the recesses. The results include (1) protection of the bottom of the recess from cuts by cutting objects and (2) suppression / reduction of retention in sculptures. Prior to being encrusted in the walls, pebbles are expelled due to movement / deformation of the tread. Figures 11-17 are cross sections of sculptures having various possible shapes of protrusion. The claimed upper surface area of at least 0.25 square inches would have been obvious and could have been determined without undue experimentation in view of Great Britain '335 and the optionally applied French '193's teaching to use the low height tread elements so that the tread is self cleaning.

#### Remarks

9) Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 3-5-04 have been fully considered but they are not persuasive.

With respect to applicant's argument that the cited references do not teach tread elements which are triangular in shape, see newly applied Klein et al which discloses triangular shaped tread elements.

10) No claim is allowed.

11) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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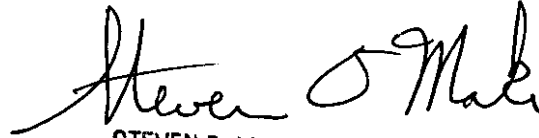
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
May 31, 2004

  
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PRIMARY EXAMINER  
—GROUP 1300—  
Av 1733 5-31-04